

REMARKS/ARGUMENTS

Claims 1 – 14 23 – 34, and 36 have been canceled by this amendment, leaving claims 15 – 17 and 37 – 47 now pending. Claims 15 and 47 have been amended to refer to a mixing block and its relation to the ball valve. Claims 37 and 41 have been amended to delete the phrase “substantially leak proof,” to refer to the pores of the geotextile fabric, and to call for the polyurethane to fill in the pores , forming a one layer monolithic membrane with the geotextile fabric.

The Examiner is thanked for the interview on February 16, 2006 where the foregoing amendments were discussed. As an initial matter, because the Examiner appeared to believe that such an amendment after final rejection might not be entered on that basis, but requiring an RCE, a few remarks on that rejection are in order. Although the present amendment is being submitted after final, it presents no matter that has not been considered before by the Examiner in determining whether the claims are anticipated or obvious over the prior art. The reference in the claims to the mixing block was not a matter of concern to the Examiner with regard to anticipation or obviousness, but only a matter under 35 U.S.C. § 112, and its inclusion was suggested by the Examiner. The description of the geotextile fabric as having pores is inherent in the original claim description of the fabric as being porous, and the monolithic nature of the fabric as with the pores filled in are matters that have been known to the Examiner from the beginning of prosecution, and again, was not a matter of concern to the Examiner with regard to anticipation or obviousness, but only a matter under 35 U.S.C. § 112. Accordingly, there is no basis for not entering the amendments. Indeed, such is specifically permitted by 37 C.F.R. § 1.116, which states in relevant part;

“(b) After a final rejection, but before or on the same date of filing an appeal

(1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;

(2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted“

The rejection of claims 15 – 17 and 47 in paragraph 2 of the Office Action, under 35 U.S.C. § 112, second paragraph as being incomplete in omitting the mixing block is obviated with the amendments to claims 15 and 47 referring to the mixing block. The amendment is supported in the specification, at page 12, line 11 – 13, to wit:

“The pumps deliver components A and B to at least one mixing block. Inside the mixing block, components A and B are statically mixed at high pressure, which results in intimate mixing of the components. The mixed components travel through an input hose (12) to the ball valve (10)”

The rejection of claims 37 – 46 in paragraphs 3 and 4 of the Office Action, respectively under 35 U.S.C. § 112, first paragraph and second paragraph with regard to the terminology “substantially leak-proof” is obviated by the deletion of that phrase. In its place, applicants have referred to the geotextile fabric as having pores and have called for the polyurethane composition to fill in the pores, forming a one layer monolithic membrane with the geotextile fabric. The amendment is supported in the specification, at page 12, line 24 – 25, to wit:

“The geotextile fabric is porous such that the polyurethane can fill in the pores and it becomes one-layer.”

The rejection of claims 15 – 17 in paragraph 5 of the Office Action, under 35 U.S.C. § 112, first paragraph as not enabled for nozzles having smaller tip diameters than 0.21 thousandths of an inch is obviated with the amendment to claim 15 calling for the spray nozzle to have a tip with an inner diameter of at least 0.21 thousandths of an inch.

There being no other rejections of the pending claims, applicants submit that the claims are in condition for allowance and respectfully solicit a Notice of Allowance. If the Examiner does not allow all the claims, he is respectfully requested to enter the amendment as presenting the rejected claims in better form for consideration on appeal (pursuant to 37 C.F.R. § 1.116).

The Commissioner is hereby authorized to charge payment of any fees required

associated with this communication or credit any overpayment to Deposit Account No. 50-0337. If an extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 50-0337. A duplicate copy of this paper is enclosed.

Dated: February 17, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert Berliner', is written over the printed name.

Robert Berliner
Registration No. 21,121